

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	DOCKET NUMBER
	§	3:14CR 293-M
	§	
JOHN WILEY PRICE (1)	§	Chief Judge Barbara M. G. Lynn
KATHY LOUISE NEALY (2)	§	
DAPHENY ELAINE FAIN (3)	§	

**DEFENDANTS' UNOPPOSED MOTION TO AMEND  
THE COURT'S PROTECTIVE ORDER [DOC. 82]**

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The Defendants respectfully request that the Court clarify and amend the existing protective order for discovery documents [Doc. 82] and in support of this motion submit the following:

1. In order to protect certain categories of material (“personal identifying information, such as that listed in Rule 49.1 of the Federal Rules of Criminal Procedure, or proprietary or privileged information”), a form [“Exhibit A”] was added to the protective order [Doc. 82 at ¶4 and at page 5]; tax information is handled differently and may only be shown to the witness whose tax information it is (or the person’s counsel) [*id.* at ¶s 1 and 3].
2. Exhibit A is an acknowledgment that the person executing the form has read

and understands the terms and conditions of the protective order, agrees to be bound by its terms, and personally acknowledges and submits to the jurisdiction of the Court for the purpose of enforcement of the protective order's terms and conditions. Doc. 82 at page 5.

3. In addition to binding all parties, their counsel and those assisting them, Exhibit A applies to and must be executed by any "witness or potential witness and their attorney" shown an unredacted document with protected information. Doc. 82 at page 2. Accordingly, the protective order and its Exhibit A have been shown to some persons interviewed in the course of the investigation, and these persons have executed Exhibit A.

4. The Defendants seek modification of the protective order, in accordance with previously expressed concerns regarding Exhibit A's application to lay persons. Doc. 240 at 10-11 (*e.g.*, concern about asking an individual to execute a legal document without legal advice; concern for a lay person's rights; concern that the document could have a chilling effect, inhibiting an individual from discussing elsewhere or otherwise the subject matter of their interview and its occurrence, including a misconception that discussion with another party in this case is prohibited).

5. Accordingly, the Defendant requests that the Court modify ¶4 of its Order

[Doc. 82 at page 2], by striking the second (and last) sentence of ¶4 and replacing it with the following language, which adds certain language to the order and also eliminates certain language, including the person's obligation to execute Exhibit A:

If a witness, potential witness, or their attorney is shown unredacted materials that contain personal identifying information, such as that listed in Rule 49.1 of the Federal Rules of Criminal Procedure, or proprietary or privileged information, **that person must be told that the information is protected by a Court order which prohibits disclosure of the protected information to any person other than representatives of the defense and the government in this case.** [added language in bold]

FOR THESE REASONS, and those expressed previously [Doc. 240], this unopposed motion to amend the protective order for discovery material [Doc. 82] should be granted.

Respectfully submitted,

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### **CERTIFICATE OF CONFERENCE**

I conferred with AUSA Walt Junker who advised that the government does not oppose the motion.

/s/Shirley Baccus-Lobel

Shirley Baccus-Lobel

### **CERTIFICATE OF SERVICE**

I hereby certify that on August 26, 2016 I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case files system of the court. The electronic case files system sent a "Notice of Electronic Filing" to the following individuals who have consented in writing to accept this Notice as service of this document by electronic means: AUSAs Walt Junker, Katherine Miller, and Nick Bunch, 3<sup>rd</sup> Floor, 1100 Commerce, Dallas, Texas 75242; and all other counsel of record.

/s/Shirley Baccus-Lobel

Shirley Baccus-Lobel